

Message Text

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FM AMEMBASSY BERLIN

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C O N F I D E N T I A L BERLIN 6603

DEPARTMENT PASS SCA, VO AND EUR/CE

E.O. 11652: GDS

TAGS: PFOR, PBOR, CGEN, CVIS, GE

SUBJECT: CHARGEABILITY AND NUMERICAL CONTROL FOR PREFERENCE AND
NON-PREFERENCE IMMIGRANTS BORN IN THE GDR AND THE SOVIET SECTOR
OF BERLIN

REF: (A) 9 FAM, PART III-22 CFR 42.50 - EXHIBIT I;
(B) 9 FAM, PART III-22 CFR 42.60

1. THE EMBASSY SHORTLY EXPECTS TO BEGIN ISSUING
IV'S TO APPLICANTS BORN IN THE GDR AND THE SOVIET
SECTOR OF BERLIN WHO ARE NOT IMMEDIATE RELATIVES OF
AMERICAN CITIZENS, AND THUS ARE SUBJECT TO CHARGE-
ABILITY AND NUMERICAL CONTROL PROCEDURES AS PER
THE REGULATORY CITATIONS REFERENCED. SEVERAL POLICY
AND PROCEDURAL QUESTIONS ARISE ON WHICH THE
DEPARTMENT'S GUIDANCE IS NECESSARY.

2. IS THERE A SEPARATE NUMERICAL LIMITATION OF
20,000 FOR THE GERMAN DEMOCRATIC REPUBLIC OR ARE
GDR CASES SUBSUMED UNDER THE "GERMANY" TOTAL, USED
HERETOFORE FOR ALL GERMANY? THE POLICY PROBLEM HERE
WOULD STEM FROM THE FACT THAT U.S. HAS ESTABLISHED
RELATIONS WITH THE GDR AND THUS RECOGNIZED TWO SOVEREIGN
GERMAN STATES IN THE GERMAN NATION.

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3. UNDER WHAT CHARGEABILITY WOULD VISA APPLICANTS
BORN IN THE SOVIET SECTOR OF BERLIN (1) PRIOR TO 1945,

(2) BETWEEN 1945 AND 1949 WHEN THE GDR CAME INTO EXISTENCE,
AND (3) SINCE THAT DATE, FALL?

4. THE EMBASSY USES THE SYMBOL "BRF" IN ITS NIV
VISA PLATE AND WHEN IT REPORTS NIV ISSUANCE IN MONTHLY
AND SEMI-ANNUAL REPORTING. IS IT TO USE THAT SYMBOL,
"GER" (FOR GERMANY), OR ANOTHER SYMBOL WHEN REPORTING
IN CONNECTION WITH IV'S ISSUED UNDER ANNUAL LIMITATIONS?

5. AFTER ANALYSIS OF THESE QUESTIONS,
THE EMBASSY FIND THAT THE ANSWERS
ARE EASILY ENOUGH FOUND WHEN CONSIDERED IN IN ISOLATION.
HOWEVER, WHEN INTERRELATED ONE WITH THE OTHER, CONFLICTS
IN BOTH THE POLICY AND LEGISLATIVE/OPERATIONAL LEVEL
OCCUR.

A. THE MOST SENSIBLE ANSWER TO THE QUESTION POSED IN
2 ABOVE IS A RECOMMENDATION TO ESTABLISH A SEPARATE
"GERMAN DEMOCRATIC REPUBLIC" NUMERICAL LIMITATION WITH
THE PRESENT "GERMANY" CHAREABILITY AND NUMERICAL
LIMITATION COVERTED TO "FEDERAL REPUBLIC OF GERMAN".
THIS APPROACH WOULD TAKE ACCOUNT OF U.S. RELATIONS
WITH THE GDR.

B. AFTER CONSIDERING THE QUESTION POSED IN
3. ABOVE, SERIOUS PROBLEMS ARISE. FIRST OF ALL,
PERSON BORN IN THE SOVIET SECTOR PRIOR TO MAY, 1945,
WHEN THE THIRD REICH SURRENDERED AND WENT OUT OF
EXISTENCE SHOULD LOGICALLY BE CHARGED TO "GERMANY".
HOWEVER. UNDER THE RECOMMENDATION DESCRIBED T.A.
ABOVE, THE "GERMANY" CATEGORY WOULD BE
TRANSFORMED TO TWO OTHER CATEGORIES, E.G., "FEDERAL
REPUBLIC OF GERMANY" AND "GERMAN DEMOCRATIC REPUBLIC".
WHERE WOULD PERSONS BORN BEFORE MAY, 1945 IN THE SOVIET
SECTOR OR EAST GERMANY FIT IN? WHAT ABOUT PEOPLE
BORN BETWEEN MAY, 1945 WHEN THE THIRD REICH DISSOLVED
AND OCTOBER, 1949 WHEN THE GDR CAME INTO EXISTENCE?
WHAT ABOUT PEOPLE BORN AFTER OCTOBER, 1949? IT WOULD
CLEARLY BE INAPPROPRIATE TO CHARGE PERSONS BORN IN THE
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SOVIET SECTOR TO "GERMAN DEMOCRATIC REPUBLIC" BECAUSE
OF ALLIED POLICY IN BERLIN AS A UNITED CITY UNDER
FOUR POWER CONTROL. HOW ARE THESE PEOPLE TO BE
CATEGORIZED?

C. IF THE DEPARTMENT WERE TO DECIDE NOT TO ACCEPT
THE RECOMMENDATION IN 5.A. BECAUSE OF THE COMPLEXITIES
LAID OUT IN 5.B. ABOVE, PRESUMABLY THE REMAINING
OPTION WOULD BE TO RETAIN "GERMANY". HOWEVER, THE
EMBASSY NOTES THAT SECTION 202(A) OF THE INA

PROVIDES THAT "THE NUMBER OF CONDITIONAL ENTRIES
MADE AVAILABLE TO NATIVES OF ANY SINGLE FOREIGN
STATE REPEAT ANY SINGLE FOREIGN STATE . . . SHALL NOT
EXCEED 20,000 IN ANY FISCAL YEAR. . ." UNDER THE
PRESENT CIRCUMSTANCES WITH THE UNITED STATES RECOG-
NIZING TWO STATES IN THE GERMAN NATION, IS "GERMANY"
PROPERLY DESCRIBED AS "ANY SINGLE FOREIGN STATE"?
FURTHER, WOULD THE TWO GERMAN STATES HAVE TO SHARE A
TOTAL NUMERICAL LIMITATION OF 20,000?

D. CLEARLY, THE QUESTION POSED IN PARA. 4 ABOVE
CANNOT BE PROPERLY ADDRESSED UNTIL THE OTHER MATTERS
RAISED IN THIS MESSAGE HAVE BEEN SETTLED.

6. THE EMBASSY DOES NOT FEEL IT HAS ENOUGH INFORMATION
ON THIS MATRIX OF PROBLEMS TO MAKE A FIRM RECOMMENDATION,
ALTHOUGH WE TEND TO PREFER THAT OUTLINED IN 5.A. ABOVE,
WHICH ALSO SEEMS TO BE CONFORMABLE WITH THE PERTINENT
U.S. LEGISLATION. PERHAPS THE ADDRESSEE POSTS CAN
PROVIDE INFORMATION ON THIS MATTER TO ASSIST IN ITS
RESOLUTION.

7. THE DEPARTMENT'S GUIDANCE WOULD BE APPRECIATED. COOPER

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